EXPLANATORY MEMORANDUM TO

THE ADVENTURE ACTIVITIES (LICENSING) (DESIGNATION) ORDER 2007

2007 No. 447

THE ADVENTURE ACTIVITIES LICENSING (AMENDMENT) REGULATIONS 2007

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1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

2. Description

. 2.1 The Order designates the Health and Safety Executive as the Adventure Activities Licensing Authority as from 1 April 2007 and has the effect of removing the designation, in place since 1996, of Tourism Quality Services Ltd.

2.2 The Amendment increases the power to delegate of the Adventure Activities Licensing Authority.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Government decided in early 2005, following the recommendations of the report "Reducing administrative burdens: effective inspection and enforcement" by Philip Hampton, that the functions of the Adventure Activities Licensing Authority, a small non-departmental public body sponsored by the Department for Education and Skills, would merge with the Health and Safety Executive, a larger non-departmental body sponsored by the Department for Work and Pensions. The Designation Order effects this by allowing the licensing authority to be taken within the Health and Safety Executive, thereby reducing the number of regulatory bodies in England, Scotland and Wales by one. Also laid at the same time are the Adventure Activities Licensing (Amendment) Regulations 2007. The Department for Education and Skills consulted the Scottish Executive, the Welsh Assembly Government, the Department for Work and Pensions, The Health and Safety Commission, the Health and Safety Executive and others before making these two instruments. No negative responses were received.

5. Territorial Extent and Application

5.1 These two instruments apply to Great Britain (England, Scotland and Wales). They are made by the Secretary of State in relation to England and Scotland and by the National Assembly for Wales in relation to Wales.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The policy objective of the Activity Centres (Young Persons' Safety) Act 1995 is to provide for the regulation of centres and providers of facilities where or with whom people under the age of 18, and not under the charge of their parents, engage in adventure activities, and to provide safety requirements. For this purpose the Secretary of State has to designate a person ("the licensing authority"), who has been nominated by the Health and Safety Commission, to exercise such functions as are currently prescribed in the Adventure Activities Licensing Regulations 2004. In designating the Health and Safety Executive, as nominated by the Health and Safety Commission, to be the new licensing authority, the Government is transferring the functions of the licensing authority to the Health and Safety Executive.

7.2. In practical terms, the authority may authorise any suitably experienced or qualified person to carry out inspections (during for example the summer season when its permanent inspection team may need supplementing) but may not issue a licence other than through its own officers or employees. The Amendment allows the authority to out-source all its functions if and as necessary from 1 April. For the first two years in the first instance it will out-source all its functions to Tourism Quality Services Ltd, a non-profit making company designated as the licensing authority 1996-2007, so that the operation on the ground can continue seamlessly.

7.3 The licensing authority is required by the Activity Centres (Young Persons' Safety) Act 1995 to have regard to guidance issued by the Health and Safety Commission; this is currently "Guidance to the Licensing Authority on the Adventure Activities Licensing Regulations 1996". The level of public interest in the two instruments is very low and there is no political or legal importance in the change. The Department for Education and Skills and the Department for Work and Pensions will issue a joint statement but further guidance will be unnecessary given that the 1,000-plus licensed providers will be inspected by the same team of inspectors, and that licence decisions will be made according to the same criteria, as before.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is similarly nil

9. Contact

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